Art. 29(a) of ETS on Measures in the event of excessive price fluctuations

ERCST Workshop

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CURRENT REGIME: ETS ART. 29A

ETS Article 29 - Report to ensure the better functioning of the carbon market:

If, on the basis of the regular reports on the carbon market referred to in Article 10(5), the Commission has evidence that the **carbon market is not functioning properly**, it shall submit a report to the European Parliament and to the Council. The report may be accompanied, if appropriate, by proposals aiming at increasing transparency of the carbon market and addressing measures to improve its functioning.

Article 29a - Measures in the event of excessive price fluctuations

1. If, for more than six consecutive months, the allowance price is more than three times the average price of allowances during the two preceding years on the European carbon market, the Commission shall immediately **convene a meeting of the Committee** established by Article 9 of Decision No 280/2004/EC.

2. If the price evolution referred to in paragraph 1 does not correspond to **changing market fundamentals**, one of the following measures may be adopted, taking into account the degree of price evolution:

(a) a measure which allows Member States to bring forward the auctioning of a part of the quantity to be auctioned;
(b) a measure which allows Member States to auction up to 25 % of the remaining allowances in the **new entrants reserve.**

Those measures shall be adopted in accordance with the management procedure referred to in Article 23(4).

3. **Any measure shall take utmost account of the reports submitted by the Commission** to the European Parliament and to the Council pursuant to Article 29, as well as any other relevant information provided by Member States.

4. The arrangements for the application of these provisions shall be laid down in the acts referred to in Article 10(4)

CURRENT REGIME: ETS ART. 29A

Comments on Art. 29:

- Art. 29
  - What does it mean a **carbon market** that is not ***'functioning properly'***?
  - Which criteria ?
  - Full discretion of COM ?
- In Art. 29a.1
  - Even if a meeting takes place, no tangible actions are proposed: additional delay
  - Six consecutive months is too long in situation of excessive prices
  - Three-time average price: too high; In case of 50 euro, it would mean 150 euro
- No indication about the measures. (i.e. how much allowances to be released and for how long ?)
- In Art. 29a.2., what are '***changing market fundamentals'*** ? What are the criteria ?
- Lengthy and untransparent process

ETS Art. 29a

Comments:

- The whole functioning of the MSR was designed in a period with single-digit carbon prices (around 8€), while recent carbon prices are fluctuating in the range 70-90€.
- Further to a parliamentary question of Anna Zalewska (ECR) on the non-use of Art. 29a (15.21.21), Commissioner Timmermans replied “the conditions for triggering Article 29a are currently not met” (31.01.22).
- This indicates its inflexible and **not fit for purpose** nature. The higher the ETS price rises, the more unlikely it becomes that Article 29a could be triggered.
- **It is essential to revise Article 29a to be able to react in a timely manner in case of excessive price increases**
- The revision should define very clearly the conditions by which COM shall release allowances from the MSR (period of time, threshold in %, amount of allowances released, evaluation)
- The triggering mechanism for this additional release shall be based on the increase of CO2 price and not on the surplus of allowances in the market (see transport and buildings sectors).
- Several MEP have tabled amendments related to art. 29a of ETS and its mirrored provisions in MSR (Art. 1.5a on the invalidation of allowances) with the allowances kept in the reserve instead of invalidating them to mitigate highly volatile and excessive prices.

ETS Art. 29a

Current ETS	P. Liese on ETS art. 29a	Anna Zalewska Am 84 on MSR Art 1. 1 b - new	Anna Zalewska Am 91 on ETS art. 29a	Eric Andrieu Am 86 on MSR Art 1. 1 b - new	Edina Tóth Am 90 on ETS art. 29a	UK PCC mechanism	ETS rev p. 54 art. 30h for building and transport
Triggering threshold in % **300 %**	200 % of avg	40 eur (80 eur (am 85)	- 200 % of avg - 200 % of avg - + 50 % Method of calculation	150 % of avg	200 % of avg	200 % of avg	200 % of avg
Period of time above threshold **6 months**	6 months	Each time	- 2 months - dur. the year - any time	3 months	5 months	3 months	3 months
Reference period **2 preceding years**	2 preceding years	-----	- 2,5 preceding years - 2 prec. Years - 3 months prec	6 preceding months	2 preceding years (of the centered month of the 5 months)	2 preceding years	6 preceding months
Amount release **-----**	100 Millions from MSR	100 Millions from MSR	MSR allowances to be assessed	100 Millions from MSR	150 Millions from MSR		50 Millions from MSR
Duration of the measure **-----**	6 months	Until below 40 eur			3 months after the month of the triggering		
Decision making process	Com initiative Assessment of change in market fundamentals with MS if in case price remains high		The Commission shall convene a meeting <u>not later than within 7 working days</u> …		Automatic release	Monthly update of the UK ETS guidance page with the price at which the CCM would be triggered.	

IMPACT OF CO2 PRICE ON FERRO-ALLOYS & SILICON INDUSTRY

- Euroalliages mandated to ERCST a study in 2021 to identify, assess, and quantify the costs of the EU ETS on the Ferro-Alloys and Silicon industry. Direct costs and Indirect costs were considered.
- The study shows that looking forward, a substantial increase of indirect carbon costs will seriously threat the financial viability of the plants operating in Europe.
- Despite conservative assumptions (no CSCF and same level of free allowances), **direct costs** after free allocation are still expected to rise up to **2.5% - 3.9% over GVA by 2030** due to the expected increase in carbon prices
- Without free allocation, direct costs would rise to **43.7% - 70.6% over GVA by 2030**
- On **indirect costs**, the current situation will worsen and, despite compensation, the study confirms that 'indirect costs will rise to unmanageable levels by 2030 reaching over **GVA 30% - 42% for Ferro-Alloys, 18%-30% for Silicon Metal and 24% - 36% for Manganese Alloys after compensation***.
- **The study concludes that 'the financial viability of the industry will be threatened'.**

*** with two CO2 price scenarios: 58.9 - 86.4 eur/T and much lower energy prices !**

EURO ALLIAGES

ETS Art. 29a: Final remarks/conclusions

- Debate about excessive carbon prices is necessary and positive for the robustness and credibility of the EU ETS as a whole. We welcome the discussion on Art. 29.
- MEPs draft proposals are divergent, but some are a good basis to discuss and tackle the real problem
- **Need an accurate reference year**: suggestion of ex. 2019+2020 otherwise constant increase
- Should the mechanism not be strong enough, it won't have any effect expect giving a wrong perception that it will have an effect! Is 100 Mio release enough to impact the trend of the market, …?
- **Transparency** is needed with any type of mechanism: reporting effects and how quick market will react are critical
- Define criteria of changing market fundamentals and not functioning of carbon markets.
- A discussion about potential maximum carbon price ranges at a given time is due:
  What should be the maximum of a combination of reference year(s) and increase threshold?
  How often and for how long a measure should be triggered to be effective ?
  Referring to the historical pattern of CO2 prices, could it be a range CO2 price of 40-80 eur/T as suggested by some MEPs in the ongoing amendment process of the file ?

- **If the CO2 price at which the mechanism will be triggered is too high, the Ferro-alloys and Silicon sector will be in danger.**